

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

**IN RE: DIGITEK  
PRODUCTS LIABILITY LITIGATION**

**MDL NO. 1968**

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**THIS DOCUMENT RELATES TO:**

**ALL CASES**

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**JOINT MOTION TO APPOINT SPECIAL MASTER**

Lead Counsel for the parties executed a Settlement Agreement (the “Agreement”) on September 1, 2010 establishing a program for the settlement of cases filed in MDL 1968 (“MDL Cases”), claims subject to tolling agreements (“Tolled Claims”), and cases filed in state courts involving Digitek® (“State Cases”). Under its terms, the parties (including the Plaintiffs’ Steering Committee, Actavis Totowa LLC, Actavis Elizabeth LLC, Actavis, Inc., Mylan Pharmaceuticals Inc., Mylan Bertek Pharmaceuticals Inc., Mylan Inc., and UDL Laboratories, Inc.) agree to abide by the decisions reached by a Special Master appointed by the Court. The parties now jointly move the Court to appoint a Special Master.

The parties intend for the Court to appoint a neutral person, disinterested in the outcome of settlement allocations, who will be responsible for Claims Administration. The Parties have more specifically described the Special Master’s duties in the Settlement Agreement and in a Separate Joint Protocol.

To effectuate the parties' intent, they jointly recommend Chuck Smith of Smith, Cochran & Hicks, P.L.L.C. Mr. Smith is an accountant and is a member of both the American Institute of Certified Public Accountants and the West Virginia Society of Certified Public Accountants. He has prior experience in Claims Administration, including his appointment as a Special Master by this Court in the *In re Serzone Product Liability Litigation*. Mr. Smith's contact information is:

Chuck Smith  
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Attached is an affidavit from Mr. Smith pursuant to Fed. R. Civ. P. 53(a)(2). Accordingly, Plaintiff and Defendant Lead Counsel respectfully and jointly request that this Court grant their motion and appoint Chuck Smith as Special Master for the Digitek® Settlement Program.

Dated: September 1, 2010

Respectfully submitted,

FOR DEFENDANTS:

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